

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MICHAEL LEE TUSTIN,)	
)	2:19-cv-00006
Plaintiff,)	
)	Judge Robert J. Colville
vs.)	
)	Magistrate Judge Patricia L. Dodge
WARDEN STRAWN, et al.,)	
)	
Defendants,)	

ORDER OF COURT

Before the Court is the February 5, 2020 Report and Recommendation of the Honorable Patricia L. Dodge (ECF No. 53) recommending that Defendants' Motion to Partially Dismiss Plaintiff's Complaint (ECF No. 40) be granted in part and denied in part. Objections to Judge Dodge's Report and Recommendation were due by March 12, 2020. No objections were filed, and the matter is now ripe for disposition.

The district court must make a *de novo* determination of those portions of the report to which objections are made. 28 U.S.C. § 636(b)(1)(C); *see also Henderson v. Carlson*, 812 F.2d 874, 877 (3d Cir.1987). This Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The district court judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.

Upon review of the February 5, 2020 Report and Recommendation of the Honorable Patricia L. Dodge (ECF No. 53), as well as a review of the entire record in this matter, it is hereby ORDERED as follows:

The Court hereby adopts Judge Dodge's Report and Recommendation as the Court's Opinion with respect to Defendants' Motion to Partially Dismiss Plaintiff's Complaint (ECF No.

40). Defendants' Motion is granted with respect to the claims set forth in paragraphs 5, 13, and 14 of the Amended Complaint, and those claims are dismissed with prejudice. The Motion is denied with respect to the claim set forth in paragraph 15. Defendants shall file an answer to the remaining claims set forth in Plaintiff's Amended Complaint within twenty-one (21) days.

BY THE COURT:

s/Robert J. Colville
Robert J. Colville
United States District Judge

DATED: March 17, 2020

cc/ecf: All counsel of record

Michael Lee Tustin
Greene County Prison
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